

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

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JANELL WINFIELD, TRACEY STEWART
and SHAUNA NOEL,

Plaintiffs,

-against-

Civil Action No.:
15-CV-5236 (LTS) (KHP)

CITY OF NEW YORK,

Defendant.

-----x

DEPOSITION OF

VICKI BEEN

New York, New York

August 2, 2017

8:58 a.m.

Reported by:
JUDITH CASTORE, CLR
Job No.51317

1 BEEN
2 fair? You know, in a world with no
3 administrative costs, in a world where
4 people couldn't game the system, in a
5 world where we had perfect information,
6 maybe you would have that kind of a
7 need basis. But that's not the world
8 that we live in, so I think it's as
9 fair as it can be.

10 Q So you're saying currently we
11 don't have a need-based system except
12 for the fact that income stands as the
13 proxy for need?

14 A Right.

15 MS. SADOK: Objection.

16 Q And one other thing. There
17 is a decision that the city makes about
18 limited resources, right, to prioritize
19 half of those apartments to people who
20 live in the community district
21 preference area?

22 A I'm sorry. Say that again.

23 MS. SADOK: Objection.

24 Q The city makes -- you have
25 said the city has limited resources,

1 BEEN

2 right?

3 A Right.

4 Q It's not going to be able to
5 meet the need of everyone for
6 affordable housing?

7 A Unfortunately not.

8 Q And sadly, despite the
9 extensive efforts of the current
10 administration, it's likely that there
11 is going to remain a big gap between
12 the need for affordable housing and
13 what is available, correct?

14 A Yes.

15 MS. SADOK: Objection.

16 Q And you said that the only
17 kind of need that's assessed is
18 financial need as evidenced by income,
19 and now also by an asset test?

20 MS. SADOK: Objection.

21 A There has always been an
22 asset test or, to my knowledge, as long
23 as I have known the city's practices,
24 there was an asset test. So it's not a
25 new thing.

1 BEEN

2 be -- that the community preference
3 helps assuage the opposition, yes.

4 Q That wasn't my question. You
5 described a series of beneficial
6 effects. And I asked you: But for
7 community preference, those actions,
8 whether it's increase supply or a
9 rezoning, but for community preference
10 those would not occur?

11 MS. SADOK: Objection.

12 A I don't know what you mean by
13 "but for" Defendant's. I don't have an
14 alternate to universe where I have
15 tested out the community preference
16 versus the -- not having a community
17 preference on actual disputes.

18 Q So you're saying that in your
19 view community preference has an
20 influence but you can't say whether
21 it's a decisive influence?

22 A I'm not sure what you mean.
23 What do you mean by "but for"?

24 MS. SADOK: Objection.

25 A It's the primary? I'm having

1 BEEN

2 trouble figuring out what you mean.

3 Q If community preference were
4 not in place, the housing would not be
5 built or if community preference were
6 in place the zoning change would not be
7 made.

8 MS. SADOK: Objection.

9 A I don't have any way of
10 assessing "but for".

11 Q Now, the city was making an
12 argument about displacement and
13 community preference even before it
14 knew just how much secondary
15 displacement was occurring, right?

16 MS. SADOK: Objection.

17 A I'm sorry. I don't understand
18 the question.

19 Q The city put out an argument
20 that community preference helps prevent
21 displacement. And then subsequent to
22 that went out looking for evidence that
23 that was the case, right?

24 MS. SADOK: Objection.

25 A No.

1 BEEN

2 it's different today.

3 I often talk about the
4 housing crisis when I was growing up in
5 the seventies and eighties which was a
6 crisis of disinvestment and shrinking
7 neighborhoods, and the discussion
8 around whether or not we should do
9 massive urban renewal and clearing out.
10 The issue there was less about
11 affordability and more about housing
12 stock in neighborhoods.

13 We sort of have the opposite
14 problem now which is that New York City
15 simply does not have enough housing.
16 And there is a growing disconnect
17 between rents and incomes. So that's
18 like a double whammy, right?

19 And then it continues with
20 the part that I had read to you. You
21 have all of these people like you and
22 my kids who can't live in the
23 neighborhoods they grew up in. Is that
24 so terrible? I am not so sure that it
25 is. My grandparents didn't live in the

1 | BEEN

2 neighborhood they grew up in either.

3 Change isn't, per se, bad. The biggest
4 issue is not that you guys can't live
5 in the village anymore. It's that you
6 may not be able to live anywhere. So
7 that, to me, is a big differentiating
8 factor.

9 A Okay.

10 MS. SADOK: Objection.

11 A Tell me your question about
12 that again.

13 Q My question about that is
14 whether you agree with Deputy Mayor
15 Glen when she said the biggest issue is
16 not that you guys can't live in the
17 village anymore. It's that you may not
18 be able to live anywhere.

19 A I would agree that having
20 housing is -- period -- is more
21 important than where the housing may
22 be.

23 Q Where the city is siting or
24 facilitating the siting of affordable
25 housing and making complimentary

1 BEEN
2 change in the racial composition of
3 neighborhoods are largely absent in
4 New York?

5 MS. SADOK: Objection.

6 A You are combining two things
7 that I can't disentangle. Do I -- are
8 you asking -- I don't know what you are
9 asking frankly. I just don't know how
10 I can answer those two questions.
11 There are two questions in there and
12 you are combining them. I don't know
13 how -- I don't know what you are
14 asking.

15 Q Okay.

16 A big concern of the
17 administration was opposition to land
18 use actions that would be necessary to
19 facilitate affordable housing, correct?

20 MS. SADOK: Objection. You
21 can answer.

22 A The administration was
23 concerned that there would be
24 opposition, yes.

25 Q Was it very concerned about

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1 | BEEN

2 | that?

3 A Yes.

4 Q And the opposition that we're
5 talking about is opposition from
6 members of the community and elected
7 officials, right?

8 MS. SADOK: Objection.

9 A Those were among the groups
10 whose opposition we were concerned
11 about; not the only groups.

Q Advocacy groups concerned
about them as well?

14 | A Advocacy groups, yes.

Q Community-based
not-for-profits?

17 A Yes, um-hum.

18 Q What other categories of
19 opposers were you thinking about?

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6 Q And you wanted to figure out
7 ways to counter that opposition,
8 correct?

9 A Yes.

10 Q And when you were figuring
11 out those ways, you had to figure out,
12 as best you could, what was motivating
13 the individuals or groups or officials,
14 yes?

15 MS. SADOK: Objection.

16 A I had to try to assess what
17 their concerns were, yes.

18 Q And when you made this
19 assessment about opposition, was it
20 your assessment that, except to a very
21 limited extent, the opposition was not
22 based on racial or ethnic concerns?

23 A Okay. So, I'm sorry. Repeat
24 that again. That's a number of
25 questions.

1 BEEN
2 gentrified neighborhoods, they're
3 younger; they're better educated; they
4 may be of different races or
5 ethnicities; they may be of different
6 incomes. That's hard.

7 Q The use of the term
8 demographics here was intended to
9 include race and ethnicity?

10 MS. COURT REPORTER: I am
11 sorry?

12 A Yes.

13 THE WITNESS: I am sorry.

14 Q So the -- so the fear is not
15 of people who are planning to stay in
16 the neighborhood?

17 MS. SADOK: Objection.

18 A I don't know who's planning
19 to stay in the neighborhood.

20 Q The fear that -- the fear --
21 and this you are referring to the fear
22 of displacement --

23 A Right.

Q -- is real and raw regardless
of what the research shows, correct?

1 BEEN

2 MS. SADOK: Objection.

3 A I'm sorry. Is your
4 question -- what is your question? By
5 demographics do I include race an
6 ethnicity? Yes.

7 Q And what else were including
8 in it when you said that?

9 MS. SADOK: Objection.

10 Q May have different
11 demographics?

12 A Can be age; education;
13 poverty status; household composition;
14 family status. Demographics is a pretty
15 broad category.

16 Q And you were just talking
17 about each of those possibilities
18 equally?

19 MS. SADOK: Objection.

20 A I lumped them all together.

21 Q Well, you didn't lump income
22 together. You put income out in the
23 wealthier category, correct?

24 A That's correct.

25 Q And you're saying that race

1 | BEEN

and ethnicity were not prime among the different demographics that we're talking about?

5 MS. SADOK: Objection.

6 A They are -- race and
7 ethnicity are part of demographics.

8 Q When you were making the
9 reference, different racial and ethnic
10 demographics was not a central part of
11 what were you talking about?

12 MS. SADOK: Objection.

13 A I didn't parse it in that
14 way, Mr. Gurian. I'm talking about
15 demographics. I didn't parse it out.

16 Q Well, from what you know
17 either as a planner or as head of HPD,
18 is race or ethnicity a characteristic
19 that may be picked out or discerned
20 more easily than education level, say?

21 MS. SADOK: Objection.

22 A I just want to be clear, I'm
23 not a planner. But I assume you mean in
24 my work as -- on land use certainly
25 race and ethnicity may be easier to --

1 BEEN

2 I think your words were pick out --
3 than education levels, yes.

4 Q And in your spoken version of
5 it, you specifically referenced that
6 the people who are coming in may look
7 different.

8 A Um-hum.

9 Q Look different how?

10 A They could be older; they
11 could be younger; they could be -- have
12 more purple or green hair than the
13 existing residents; they may be
14 different races. All of those things.

15 I didn't specify.

16 Q I'm asking you what you were
17 thinking about.

18 A All of those things.

19 Q Equally?

20 MS. SADOK: Objection.

21 Q Let me put it this way:
22 You were thinking about
23 purple hair and -- strike that.

24 Let's talk about a
25 neighborhood that's disproportionately

1 BEEN

2 African American. Have you been in any
3 such neighborhoods where there is real
4 and raw fear of displacement?

5 A Yes.

6 Q And the concern in those
7 neighborhoods about the people who were
8 coming in may look different might be
9 that they have green hair or white skin
10 with equal likelihood as between them?

11 MS. SADOK: Objection.

12 A I don't know what people in a
13 community are thinking. That's not -- I
14 don't have that capacity.

15 Q Well, your whole presentation
16 was trying to -- this portion of your
17 presentation was trying to explain what
18 people's concerns were about
19 neighborhood change. And --

20 A -- about displacement.

21 Q Well, I think we've been over
22 this. There is a worry that even if
23 they stay -- my words now -- there is a
24 problem -- your words -- the
25 demographics, the look and feel of

1 BEEN
2 their neighborhood, the sense of the
3 neighborhood may change. So you are
4 trying to characterize what is driving
5 the worries of people in a
6 neighborhood. Aren't you doing that
7 here?

8 MS. SADOK: Objection.

9 A I'm trying to explain why
10 there -- why the fear of displacement
11 is real and raw. That was the purpose
12 of that slide.

13 Q But what you did was
14 talked -- in part was talk about people
15 who, even if they stay, the
16 demographics, the look and feel of
17 their neighborhood, sense of the
18 neighborhood, may change.

19 A Yes.

20 Q And that's because, in part,
21 the people who are coming in may look
22 different. And so my question now is .
23 When presenting that you considered the
24 green or purple hair at an equivalent
25 level of worry as someone being of a

1 BEEN

2 different racial or ethnic background?

3 MS. SADOK: Objection. Asked

4 and answered.

5 Q Please answer.

6 A I do not know which is a
7 greater fear. I do not know. I know
8 that people fear displacement because
9 they see differences.

10 Q Did you have a view during
11 your time as HPD commissioner as to
12 whether the green or purple hair on the
13 one hand or a different race or
14 ethnicity from a dominant race or
15 ethnicity in the neighborhood was more
16 of a worry or fear?

17 MS. SADOK: Objection.

18 A I don't know.

19 MS. SADOK: Asked and
20 answered.

21 A As I have said, I don't know
22 what is in the heads of the people in
23 the neighborhood. I know what they say.

24 Q I understand that. But I'm
25 asking you how you have thought about

1 | BEEN

2 | it as HPD commissioner.

3 Did you think that there was
4 the same level of concern in a minority
5 community about the newcomer having
6 green or purple hair or whether the
7 newcomer was of a different race or
8 ethnicity?

9 MS. SADOK: Objection.

A To go back to the beginning
of this discussion, Mr. Gurian, people
fear displacement. And one of the
reasons they fear displacement is that
they see a neighborhood changing around
them. And when they see people who look
different, whether it's green hair or
race or age or whatever, they think
those are not the people who used to be
here. Therefore, they think to
themselves, There must be displacement.
People who were here are not here now.
The people who are here now were not
here before, therefore, there must be
displacement.

Q I'm afraid that wasn't the

1 BEEN
2 answer to my question. I will redirect
3 your attention back to the people who
4 were staying who you have explained in
5 the slide have worries based on people
6 looking different. Are you with me?

7 A I'm with you. I'm not sure
8 you are with me.

9 Q That's fine. Let me ask the
10 question. So those worriers who were
11 staying because people were coming in
12 looked different, all I'm asking is:

At your role as HPD when you
thought about these worries, did you
think that the worry about green or
purple hair color was as much of a
worry as race or ethnicity of the
newcomer?

19 MS. SADOK: Objection. Asked
20 and answered multiple times
21 already.

22 A As I said before, I don't
23 know.

24 Q If I were -- perhaps this
25 would help. If I were asking the

5 MS. SADOK: Please don't
6 direct the witness on how to
7 answer your questions.

8 MR. GURIAN: I'm sorry.

9 Unfortunately, the record will
10 reflect that the witness has
11 repeatedly been unresponsive. So
12 I'm trying to wrap up this line of
13 questioning.

14 Q So I'm just asking you when
15 you thought about it, the worries of
16 the stayers during your time as HPD
17 commissioner, did you believe that the
18 level of worry about green or purple
19 hair was as much or more than the worry
20 about the newcomers' race or ethnicity?

21 MS. SADOK: Objection. Asked
22 and answered.

23 A So I think the problem that
24 we're having is that you seem to assume
25 that the people who stay don't fear

1 BEEN
2 displacement. And the point that I am
3 making in this discussion is that the
4 people who stay have a real and raw
5 fear of displacement. And one of the
6 reasons that they have a real and raw
7 fear of displacement is that they see
8 the neighborhood is changing and the
9 people in the neighborhood are
10 changing. And they worry that they may
11 be one of the ones who leaves, right?

12 And I don't think that it
13 matters to them whether it's a person
14 who looks different because of race or
15 a person looks different because of
16 their hair is different. They are
17 different than what was there before.
18 Which signals to people that there has
19 been displacement. That's what I was
20 concerned about. So -- all right?
21 That's what I was concerned about.

Q So you just said that it --

23 MR. GURIAN: Read back the
24 answer.

25 | (Whereupon, the record was

1 BEEN

2 Q No, just above that. I don't
3 know how to pronounce the name after
4 Peter.

5 A Beats me. I don't remember.
6 Sorry.

7 Q Could you just read that
8 sentence that follows after
9 Peter/Pierina right above higher-cost
10 neighborhoods.

11 A Who is Peter? Okay. So that
12 question was directed to Peter Pierina.
13 Or Peter and Pierina. The threats to the
14 ethnic identity of neighborhoods is one
15 of the key issues that comes up in
16 debates around gentrification including
17 around Chinatown and East Harlem.

18 Q That's what I wanted you to
19 read. And were you aware of that prior
20 to the moderator writing this question?

21 MS. SADOK: Objection.

22 A Was I aware --

23 Q That the threats to the
24 ethnic identity of neighborhoods is one
25 of the key issues that comes up in

1 BEEN

2 debates around gentrification including
3 around Chinatown and East Harlem.

4 A Was I aware of that? I was
5 aware that some people think that, yes.

6 Q Now it's my turn to
7 distinguish. So some people think that
8 the threats to ethnic identity is one
9 of the key issues? Is that what you're
10 saying by some people think that?

11 A Yes. And that some people
12 think that that's what marks Chinatown
13 and East Harlem. It's a compound
14 sentence so --

15 Q So do you agree that threats
16 to the ethnic identity of neighborhoods
17 is one of the key issues that comes up
18 in debates around gentrification?

19 MS. SADOK: Objection.

20 A That really depends. I mean,
21 are you asking me about the debates
22 around gentrification that pertain to
23 the housing policy or are you asking me
24 in general?

25 Q Ms. Yager made an assertion

1 BEEN
2 here. Her assertion was that the
3 threats to the ethnic identity of
4 neighborhoods is one of the key issues
5 that comes up in debates around
6 gentrification. Number one, I think you
7 have said that you have heard others
8 express that view; is that right?

9 A Yes.

10 Q Number two, do you agree with
11 that view?

12 MS. SADOK: Objection.

13 A No.

14 Q Would you agree that threats
15 to the ethnic identity of neighborhoods
16 is an issue that comes up in some
17 debates about gentrification?

18 A I would agree that threats --
19 I'm not sure what was meant by that. I
20 would agree that questions about
21 changes in the ethnic identity of
22 neighborhoods is an issue that comes up
23 sometimes in debates around
24 gentrification.

25 Q Where has that come up?

1 BEEN

2 A For example, this was a
3 different -- this was at Scandinavia
4 House.

5 Q I'm just asking you for a
6 list, to the extent you know it, of
7 different gentrification debates where
8 threats to the ethnic identity of
9 neighborhoods has come up as an issue.

10 A And I'm answering precisely
11 that question. There was another APA
12 panel that I was on. And I wanted to
13 make sure that it wasn't this one.
14 There was another APA conference that I
15 was on where there was a member of the
16 panel -- whose name I forgot -- who
17 framed it in those terms.

18 Q And you are not aware of this
19 issue of threat to ethnic identity
20 coming up at any other circumstance?

21 MS. SADOK: Objection. You
22 can answer.

23 A I have been at dozens of
24 conferences, and I'm trying to separate
25 out in my mind. I'm sure there have

1 BEEN

2 been other conferences but I can't
3 recall. I can't separate out.

4 Q My question was not limited
5 to conferences.

6 A Okay.

7 Q So --

8 A Other discussion?

9 Q Other debates about
10 gentrification. I don't mean formal
11 debates.

12 A Right.

13 Q Just discussions about
14 gentrification in different communities
15 or neighborhoods.

16 A Yes. I am sure that there
17 are others. I don't recall the details.
18 I'm sure that there are others in which
19 questions of changes in the ethnic
20 identity of the community have been
21 raised as part of the discussion about
22 gentrification. I gave you one where I
23 have a very definite recollection. I
24 can't remember the specifics of others.

25 Q I understand that but would

1

2 you say that there are several others?

3 A Yes.

4 (Document, Bates stamped

5 NYC_0071014 through 71017, was
6 marked Plaintiff's Exhibit 36, for
7 identification, as of this date.)

8 Q So you are looking at what's
9 been marked as 36. This is, as far as
10 it appears, a meeting that you
11 participated in. Do you know Ron
12 Shiffman?

13 A I do.

14 Q Who is he?

15 A He is professor at Pratt. He
16 is an activist. He is a very well
17 regarded urban planning professor,
18 beloved in many circles.

19 Q Has he during your period at
20 HPD either provided you guidance or
21 subjected you to advocacy?

22 MS. SADOK: Objection.

23 A He has shared his opinions
24 with me, yes.

25 Q Regarding what sorts of

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2 [Redacted]

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2 [Redacted]

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1
2 mind when you asked me about cultural
3 identity is a building that we financed
4 in South Bronx, I think, where the
5 attempt was to reinforce cultural
6 identity by having a music space within
7 the building because it had been the
8 home of hip hop. That's what I take to
9 mean cultural identity. Some
10 neighborhoods are known for being the
11 birthplace of hip hop; some
12 neighborhoods are known for being
13 museum mile. Different -- it can mean
14 race and ethnicity but doesn't need to,
15 doesn't always.

16 Q Just to return to my
17 question. Doesn't reinforcing cultural
18 identity often have something to do
19 with reinforcing the presence of people
20 who share the culture?

21 MS. SADOK: Objection.

22 Please speak your answer.

23 A No.

24 MR. GURIAN: May I have
25 those?

1 BEEN

2 Q The difficulty that you are
3 talking about in this last part here
4 the last two words or next to the last
5 line of that paragraph, the difficulty
6 you are talking about here is
7 difficulty in having thoughtful
8 discussions about these issues?

9 A Right.

10 Q And that which you place it
11 in conversation with is the backdrop of
12 local politics. So how does the
13 backdrop of local politics make it
14 difficult to have thoughtful
15 discussions?

16 MS. SADOK: Objection.

17 A So if we're stuck on was
18 the -- I'm trying to make this more
19 concrete so that we're not talking
20 passed each other. The assessment of
21 fair housing requires you, as you know,
22 to identify impediments to fair
23 housing, right? And then -- and the
24 objection that we were drawing was that
25 at that time it asked you to draw

1 | BEEN

conclusions about what had caused those, right?

And in my view, it's very difficult to nail down a cause of a particular pattern or whatever that we're talking about today. When you are having that against the backdrop of local politics of a group saying, This caused it and this is the solution that you should have, as opposed to another group saying, This is what caused it and this is the solution you should have, or another group saying, No, it -- that wasn't it at all, it was completely something else, that makes it very difficult.

18 Q How is that different from
19 any public policy issue over which
20 various people disagree?

21 A Because when you are talking
22 about racism and racial biases, it's a
23 hard conversation. People don't tend
24 do all that well in those conversations
25 in my experience.

1 BEEN

2 Q It has a special salience or
3 charge, is that --

4 A Right.

5 Q Is that --

6 A It does have salience.

7 Q Could I just refer you back
8 to that other exhibit. I'll take 24
9 back from you.

10 On the first page of 39, you
11 see in your e-mail, Item 2, We should
12 not be playing into arguments that we
13 don't believe in.

14 A Um-hum.

15 Q And then in No. 4 you say, It
16 is always better to talk about our
17 commitment to diverse communities and
18 our goal of ensuring that affordable
19 housing is available in neighborhoods
20 than to go the legal route and talk
21 about fair housing.

22 A Um-hum.

23 Q Why?

24 A Because I think fair housing
25 shuts people's -- shuts people down.

1 BEEN

2 Q Any other reason?

3 A No. I just -- in my
4 experience, it doesn't lead to the best
5 of conversations. When you invoke fair
6 housing, it shuts people down.

7 Q Do you have any sense of why
8 it shuts people down?

9 A Mr. Gurian, not to get
10 personal, I can only -- I can
11 respond -- I'm not a psychiatrist. I
12 am not a sociologist. I was lucky to
13 spend Sunday at the African American
14 Museum. It's the first time I had
15 gotten to go. And it's an amazing
16 museum. People feel -- it's an
17 incredibly emotional museum. The
18 people feel any range of emotions,
19 right? And I think the tragedies of
20 our country's racial history are hard
21 for people to talk about.

22 Q Part of why you say it's best
23 to just avoid references to fair
24 housing isn't part of the reason that
25 fair housing is not universally

1 | BEEN

2 supported here in New York City?

3 MS. SADOK: Objection.

4 A I assume fair housing is not
5 universally supported. I certainly
6 would assume that, yes. I would assume
7 that fair housing is not universally
8 supported. I unfortunately read a lot
9 of the comments about the AFFH rule
10 Affirmatively Furthering Fair Housing
11 rule. It's hard to read those comments
12 and not understand that many people
13 oppose fair housing.

14 I don't know in New York how
15 many but I don't know how many -- I
16 can't quantify how many anywhere but
17 certainly it is part of our society.

18 Q So isn't part of not speaking
19 about segregation and the terms of
20 segregation and fair housing part of
21 trying to accommodate oneself to the
22 reality that some people in your
23 audience may not be ready to hear that?

24 MS. SADOK: Objection.

25 A I guess I would describe it

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1 BEEN
2 as the difference between a positive
3 approach and a negative approach,
4 right? When you talk -- what I was
5 trying to say here is, it's better to
6 talk about the positive. We want
7 diverse neighborhoods. Diversity is
8 what makes New York City so great.
9 Diversity is what we celebrate in
10 New York. And that makes New York the
11 world's -- the best city in the world
12 as far as I am concerned.

13 So I'm saying, Let's be
14 positive. Let's talk about diversity.
15 Let's not be accusing people of
16 violating the Fair Housing Act.

17 Q Is identifying the city as --
18 characterized as racially segregated
19 negative?

20 MS. SADOK: Objection.

21 A It can be in certain
22 circumstances.

Q What circumstances?

24 A If I was trying to convince a
25 community that they should do whatever

1 BEEN
2 it is, I would at least begin with -- I
3 would try to focus them on, Here are
4 the advantages. We want diverse
5 communities. Diverse communities are
6 important to the city. Who -- what the
7 city is. It's important to the city's
8 competitive advantage. It's important
9 to what makes the city great. I would
10 go there before I would say, You're
11 racially segregated. It's just a
12 tactic, a question of tactics.

18 Q So this may relate to what
19 tactics. You tell me. I am showing
20 you what's previously been marked 22,
21 Volume 23 of the 2014 Con Plan.

22 As part of that, as you know,
23 there is an affirmatively furthering
24 fair housing section?

25 A Um-hum.

1 | BEEN

2 MS. SADOK: Objection.

3 A I'm trying to remember. I
4 don't think that -- I might have been
5 asked about community preference in one
6 of the hearings. So that might have
7 made people more generally aware.

Otherwise, it may be but -- "I don't know" is the right answer.

10 Q So unlike the presentation
11 that HPD made to council members and
12 staff about what -- how the lottery
13 system works, there wasn't a
14 council-wide communication that this
15 challenge exists?

16 MS. SADOK: Objection.

17 A Not from me. I can't speak to
18 what intergovernmental or the mayor may
19 have done. I don't know of any such
20 communication.

21 Q But you are not aware of
22 that?

23 A No.

24 Q So did you ever suggest to
25 any council member that the community

1 | BEEN

preference should be eliminated or
reduced?

4 MS. SADOK: Objection.

5 A The community preference
6 policy?

7 Q That the community preference
8 policy should either be eliminated or
9 the percentage of apartments given over
10 to community preference reduced?

11 MS. SADOK: Objection.

12 A Not to my recollection.

13 Q Aware of anyone in the
14 administration who has done so?

15 MS. SADOK: Objection.

16 A Not to my recollection.

17 Q Did the city, as far as you
18 know, consider doing so?

19 MS. SADOK: Objection.

20 A I don't -- I don't recall. I
21 don't recall any such discussion.

22 Q Are you aware of any council
23 member saying to you or to anybody else
24 words to the effect of, No affordable
25 housing in my district until we're sure

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1 | BEEN

2 that the challenge to community
3 preference has been defeated?

4 MS. SADOK: Objection.

5 A No.

6 Q I want you to imagine for a
7 moment a world in which community
8 preference has been disallowed by the
9 court. I know that's not your desired
10 outcome but just imagine that for a
11 moment.

Under those circumstances, do you know for a fact if any council members would reject the necessary actions to permit any affordable housing in their districts?

17 MS. SADOK: Objection.

18 A I don't know for a fact what
19 council members would do in that
20 hypothetical.

21 Q What about the hypothetical
22 in which the city, in the absence of
23 court action, said that it was getting
24 rid of community preference? Do you
25 know for a fact if any council members

1 | BEEN

2 would reject the necessary actions to
3 permit any affordable housing in their
4 districts?

5 MS. SADOK: Objection.

6 A I don't know for a fact what
7 would happen in a hypothetical.

8 Q If the city were not
9 permitted to use community preference,
10 then I believe that the choice for a
11 council member would be affordable
12 housing without community preference or
13 no affordable housing. Does that make
14 sense?

15 MS. SADOK: Objection.

16 A Depends. It depends on the
17 issue. The issue could be a rezoning;
18 it could be a tax extension; could be
19 any number of things. So it depends on
20 the context.

21 Q I'm not sure I understand. If
22 we're talking about the actions needed
23 to permit or facilitate the
24 construction of affordable housing,
25 whether it's zoning or any -- whether

1 | BEEN

buildings that have gone up without
community preference, if you know?

4 A I'm not aware of -- during my
5 time as commissioner when -- during my
6 time as commissioner, if a 421a
7 building went up as a 80/20, it used
8 the community preference.

9 Q So let's say in my
10 hypothetical where the city didn't have
11 community preference but wanted to
12 proceed with affordable housing, an
13 affordable housing development that did
14 not have it, that is an affordable
15 housing development that under current
16 rules would have -- do you know what I
17 am describing?

Imagine a circumstance where under current rules there would be a community preference. But now the community preference has been taken away and the council member uses his or her influence to turn down that housing, would that turndown by the council member be in the interest of

1 | BEEN

2 | the city?

3 MS. SADOK: Objection.

4 A I don't think so.

5 Q Would the turndown of that
6 affordable housing be in the interest
7 of the residents of the council members
8 district?

9 MS. SADOK: Objection.

10 A That depends on the context.

Q If the variable was the
variable that we've been talking about,
community preference, there are all
these other reasons for opposition,
right? Density; increased burden on
schools; increased services.

17 You have to speak your
18 answer. Correct? There are all these
19 other reasons for opposition, correct?

A There are other --

21 MS. SADOK: Objection.

22 A There are other reasons for
23 opposition.

24 Q So but if it we're just -- it
25 if just came down to the fact that the

1 BEEN
2 from getting you back into your seat as
3 the commissioner of HPD, you have
4 proposed the project, already
5 identified it as a project that's in
6 the interest of the city. Regardless of
7 what particular members of the
8 council -- particular constituents of
9 the council member might think, is it
10 your judgment that the turndown would
11 or would not be in the interest of
12 residents of the council member's
13 district?

14 MS. SADOK: Objection.

15 A Okay. If I thought it was in
16 the interest of the city to have the
17 affordable housing and the council
18 member turned it down solely because
19 there was no community preference, I
20 would not think that that was in the
21 interest of the community.

22 Q You haven't asked council
23 members what they would do about future
24 affordable housing proposals in their
25 districts if the administration decided

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5 MS. SADOK: Objection.

6 A No.

7 Q Has HPD gone around the city
8 making the argument that all of us
9 deserve equal access to affordable
10 housing wherever it is?

11 MS. SADOK: Objection.

12 A Has HPD gone around the city
13 making the arguments that everyone
14 should have equal access?

15 Q To affordable housing
16 wherever the housing is and wherever
17 the New York City residents live?

MS. SADOK: Objection.

19 A HPD has certainly -- I have
20 made the argument that people should
21 have equal access to our housing.

22 Q Equal access to all of the
23 housing?

24 A Yes.

25 | Q Regardless of where the

1 BEEN
2 city's chosen policy that people
3 outside the community district,
4 outsiders as I described this morning,
5 are not eligible for 50 percent of the
6 units, correct?

7 MS. SADOK: Objection.

8 A No.

9 Q So is that incorrect for a
10 reason other than the fact that it's a
11 priority to given to insiders?

12 MS. SADOK: Objection.

13 A The community preference is a
14 preference for people -- for people
15 living in the community district in
16 which the housing is built.

17 Q So you have not -- HPD has
18 not gone around the city explaining
19 that as one New York all of us should
20 have access to all affordable housing
21 without preference being given to
22 members of the community district?

23 MS. SADOK: Objection.

24 A No. HPD has not gone around
25 to the -- around the city saying that

7 Q Okay. I am going to
8 interrupt you because that wasn't my
9 question. And this isn't a time for a
10 lecture.

11 Let me ask you about the
12 homeless preference that's -- at least
13 in October was decided to be embedded
14 in some buildings. Is it the case that
15 that was only for 421a buildings?

16 A By the homeless preference,
17 do you mean specifying that homeless
18 could qualify for the community
19 preference units? Is that what you
20 mean?

22 A Right. That determination is
23 for 421a buildings only.

Q What's the new 421a called?

25 A Affordable New York?

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1
2 STATE OF New York)
3) :ss
4 COUNTY OF New York)
5
6

7 I, VICKI BEEN, the witness
8 herein, having read the foregoing
9 testimony of the pages of this deposition,
10 do hereby certify it to be a true and
11 correct transcript, subject to the
12 corrections, if any, shown on the attached
13 page.

14
15 

16 VICKI BEEN
17
18
19

20 Sworn and subscribed to before me,
21 this 18th day of September, 2017.

22 

23
24 Notary Public
25

KRISTIN E SILBERMAN
NOTARY PUBLIC STATE OF NEW YORK
NEW YORK COUNTY
LIC. #01516137116
COMM. EXP. Feb 22, 2018

ERRATA

I wish to make the following changes, for the following reasons:

PAGE LINE

242 12 CHANGE: "aiming" to "a main"

REASON: deponent stated "a main" but reporter transcribed incorrectly

291 18 CHANGE: "extension" to "exemption"

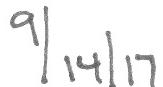
REASON: deponent stated exemption but reporter transcribed incorrectly

292 15-16 CHANGE: "would get" to "would not get"

REASON: deponent stated "not" and statement would not make sense without "not"



WITNESS' SIGNATURE



DATE



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